

**Renewable Energy Question #19: How has MI, and how have other jurisdictions, applied energy mandates in situations where an existing provider has excess capacity prior to the mandate?**

Of the 29 states that currently have renewable electricity standards (RES) in place, Oregon and Washington State are the only two that deal explicitly with the issue of excess capacity. In both cases, the possibility of securing temporary compliance waivers were put in place primarily to account for utilities in the region that rely heavily on hydropower from federally owned and operated dams. Strict criteria also must be met in order to gain the waivers.

For example, Oregon's obligated electric utilities are not required to comply with the RES if both of the following conditions are met: "(1) Compliance would require the utility to acquire electricity in excess of the utility's projected load requirements in any calendar year; and (2) Acquiring the additional electricity would require the utility to substitute qualifying electricity for electricity derived from an energy source other than coal, natural gas or petroleum." In addition, Oregon's electric utilities are also not required to comply with the RES to the extent that compliance would require the utility to substitute qualifying electricity for electricity available to the utility under existing contracts (entered into before June 2007) for electricity from dams that are owned by Washington public utility districts and are located between the Grand Coulee Dam and the Columbia River's junction with the Snake River.

Similarly in Washington State, obligated utilities that have not experienced any retail load growth in three consecutive years are allowed to meet a lesser requirement. However, three conditions must be met to trigger this temporary reprieve: "(1) the utility's weather adjusted load for the previous three years on average did not increase over that time period; (2) after 2006, the utility did not commence or renew ownership or incremental purchases of electricity from resources other than renewable resources other than on a daily spot price basis and the electricity is not offset by equivalent renewable energy credits; and (3) the utility invested at least one percent of its total annual retail revenue requirement that year on eligible renewable resources, renewable energy credits, or a combination of both."

While no other state RES legislation addresses excess capacity, several compliance flexibility mechanisms have been implemented under numerous state RES policies that can potentially help alleviate the issue for affected utilities. For example, most state RES policies track compliance by issuing and retiring tradable renewable energy credits (RECs), and many states permit the use of unbundled RECs (that is, a REC which is separate from the electricity generation that created it) for compliance. Obligated utilities therefore have the option to acquire RECs from other developers rather than investing directly in new renewable energy capacity themselves. In addition, many states allow for the short-term banking and/or borrowing of RECs as a further means of compliance flexibility.

Resources:

- 1) North Carolina Solar Center. Database of State Incentives for Renewables and Efficiency. Online at: <http://www.dsireusa.org>.